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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/341,979 07/21/99 BODET

J CM1431

EXAMINER

IM62/0606

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ART UNIT

PAPER NUMBER

1751

DATE MAILED:

06/06/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/341,979

Applicant(s)

Bodet et al

Examiner

Greg Del Cotto

Group Art Unit
1751



☒ Responsive to communication(s) filed on 20 Mar 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-5 and 7-10 is/are pending in the applicat

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-5 and 7-10 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

1. Claims 1-5 and 7-10 are pending. Applicant's amendments and arguments filed 5/20/00 have been entered. Claims 6 and 11 have been canceled.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Objections/Rejections Withdrawn

3. The following objections/rejections as set forth in Paper #5 have been withdrawn:

The objection to the specification as failing to contain an abstract and the objection to the claims due to minor informalities have been withdrawn.

The rejection of claims 6, 8, and 11 under 35 USC 112, second paragraph, has been withdrawn.

The rejection of claim 11 under 35 USC 112, second paragraph and rejection of claim 11 under 35 USC 101 have been withdrawn.

Objections/Rejections Maintained

Claim Rejections - 35 USC § 103

4. Claims 1-5 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naik (US 5,387,373) for the reasons of record set forth in Paper #5.

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5. Claims 1-5, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Surutzidis et al (US 5,858,950) for the reasons of record set forth in Paper #5.

Response to Arguments

With respect to Naik, Applicant states that Naik does not specifically teach the use of branched-chain alkoxyated sulphates nor use of such compounds to provide low temperature instability. In response, note that, Naik specifically teaches the use of Lialet 123-3S, a C12-C13 alkyl ether sulphate with an average of 3 moles of ethylene oxide (see column 8, lines 42-55), which is the same branched alkyl ether sulphate disclosed as a preferred material on page 5, lines 20-25 of the instant specification. Clearly, one of ordinary skill in the art would be motivated to use this branched alkyl ether sulphate in compositions containing the same ingredients in the same proportions as recited by the instant claims since Naik exemplifies its use in similar cleaning compositions. Note that, with respect to the Applicant's use of the branched alkyl ether sulphates due to low temperature stability, the reason or motivation to modify the reference may often suggest what the inventor has done, but for a different purpose or to solve a different problem. It is not necessary that the prior art suggest the combination to achieve the same advantage or result discovered by applicant. In re Linter, 458 F.2d 1013, 173 USPQ 560 (CCPA 1972). Naik teaches the branched alkyl ether sulfates as a possible choice for surfactant material to achieve mildness to the skin, and this is sufficient motivation to one of ordinary skill in the art to use such a material in the cleaning compositions taught by Naik.

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With respect to Surutzidis et al, Applicant states that the '950 reference relates to liquid detergent compositions which can contain a branched anionic surfactant and which are formulated to be low-sudsing whereas the compositions of the present invention are formulated not only to be stable, but also to provide good sudsing, good grease removal performance and skin mildness. In response, note that, the Examiner asserts that the compositions taught by Surutzidis et al would have the same properties as recited by the instant claims because Surutzidis et al suggest cleaning compositions containing the same components in the same proportions as recited by the instant claims. Additionally, nowhere in the instant claims does it require that the compositions are high-sudsing or mild to the skin and these limitations are not read into the instant claims. Furthermore, Applicant has not provided any data or evidence showing the unexpected and superior properties of the claimed invention over the prior art products. In re Boesch, 205 USPQ 215.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory R. Del Cotto whose telephone number is (703) 308-2519. The examiner can normally be reached on Monday thru Friday from 9:30AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

GRD
June 5, 2000

GREGORY R. DEL COTTO
PATENT EXAMINER
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